

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 99-259
Table of Allotments,) RM-9685
FM Broadcast Stations.)
(Soperton, Georgia))

COMMENTS & COUNTERPROPOSAL
OF
LACOM COMMUNICATIONS, INC.

Comes now LACOM COMMUNICATIONS, INC. ("Lacom"), by counsel, and pursuant to the *Notice of Proposed Rule Making (DA 99-1393, released July 16, 1999)* (the "NPRM"), and hereby respectfully submits these, its Comments & Counterproposal in the above-captioned Rulemaking proceeding. For its Comments and Counterproposal, Lacom submits the following:

Background

1. According to the NPRM (a multiple-docket Notice of Proposed Rule Making, though only the Soperton, Georgia proposal is referenced and addressed herein), Mr. John Morgan Dowdy, ("petitioner"), requested the allotment of Channel 253A at Soperton as that community's second local FM transmission service. The NPRM indicates that the requested allotment can be made provided that there is a site restriction 9.6 km (6 miles) southeast to avoid a short-spacing to Station WSB-FM, Channel 253C, Atlanta, Georgia, and to the proposed allotment of Channel 252C3 at Hawkinsville, Georgia, proposed in MM Docket 99-199.

2. Lacom is an interested party in this proceeding. It is the licensee of FM

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set forth in Exhibit 1, attached hereto, preclude the allocation of Channel 253A at Soperton, as that community's second local transmission service.

4. The community of East Dublin, Georgia is qualified and deserving of the counterproposed allotment due to the following factors:

(a) East Dublin does not have any local aural broadcast transmission service, nor does it have any radio channels currently allotted to the community. On the other hand, Soperton, Georgia has its own commercial FM radio station.²

(b) While the allotment of FM Channel 251C3 to East Dublin will require the deletion of FM Channel 251A at Swainsboro, Georgia, this is of little consequence, inasmuch as Swainsboro will be left with three other local transmission services, including another commercial FM service. These include WJAT(AM), 800 kHz; WXRS(AM), 1590 kHz; and WXRS(FM), Channel 263A.

(c) East Dublin's population, according to the 1990 census, was 2,524 persons. However, according to the Georgia Institute of Technology State Data and Research Center (www.sdrnt.pp.gatech.edu) the population was 2,709 persons as of July 1, 1998. The Georgia Department of Industry, trade and tourism states that the population was 3,209 as of that date. East Dublin is an incorporated city, with a City Hall, and its own police department, and provides fire, water and sewer services. It has a mayor and council form of government, with five members of the city council. It has a city zoning ordinance and its own Post Office. Schools are provided by the county, but there are approximately 85 commercial businesses in East Dublin which are identified with the city specifically. Interstate 16 passes nearby, and has an East Dublin exit. Railroad service is provided at East Dublin by Norfolk Southern Rail and CSX.

5. Generally, if a community is incorporated or is listed in the U.S. Census, the community qualifies for FCC allotment purposes. *See generally, Revision of FM*

² FM Station WKTM, 106.1 MHz, licensed to Augusta Radio Fellowship Institute, is licensed to Soperton, Georgia and operates at 6 kW.

Assignment Policies and Procedures, 90 FCC 2d 88, 101 (1992); Gretna, Marianna, Quincy and Tallahassee, Florida, 6 FCC Rcd 633 (1991). The identity of large number of businesses with the town name and the fact that many businesses use the town name in their business name, indicates a connection between the town's business, social and political cultures -- another indicia of community status. See, Gretna, etc., *supra*.

6. Where, as here, different communities are competing for the allocation of one or more mutually-exclusive configurations for new radio channel allotments, the Commission must choose between the conflicting proposals and base its decision on the following allotment criteria as set forth in *Revision of FM Policies and Procedures*, *supra*, in descending order of importance:

- (1) first full-time aural service;
- (2) second full-time aural service;
- (3) first local service; and
- (4) other public interest matters.

Based upon the above criteria, the allotment of a first local aural transmission service to the community of East Dublin is clearly to be preferred over the allocation of a second FM channel allotment to the community of Soperton, Georgia. The proposal contained in the NPRM does not provide any first or second full-time aural service, nor would it create any first local service to Soperton. Therefore, the NPRM proposal is included in priority 4. On the other hand, the instant counterproposal is squarely classified as priority 3, and therefore is to be preferred in this case.

7. From a technical standpoint, the allotment of Channel 251C3 to East Dublin, coupled with the deletion of Channel 251A at Swainsboro, fully complies with

all applicable FCC Rules and Regulations. Attached hereto as **Exhibit No. 1** is a Technical Statement prepared by Jefferson G. Brock of Graham Brock, Inc. (prepared for use in MM Docket No. 99-199), wherein it is demonstrated that Channel 251C3 can be allotted to East Dublin at reference coordinates North Latitude 32-33-28, and West Longitude 82-42-10. A site restriction 17 km east of the city is required to avoid shortspacing. The proposal is mutually exclusive with the channel change proposed at Soperton, Georgia, and with the existing facilities of WELT, licensed to Lacom, at Swainsboro.

Statement of Interest

8. Lacom hereby states that, in the event Channel 251C3 is allotted to East Dublin, Georgia, it will immediately thereafter file an FCC Form 301 Application with the Commission to modify the Construction Permit for WELT to specify operation on Channel 251C3 at East Dublin, Georgia instead of Channel 251A at Swainsboro.

Conclusion

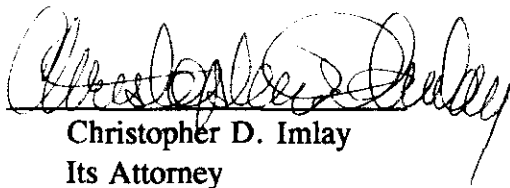
WHEREFORE, the above premises considered, Lacom respectfully requests that its Comments and Counterproposal be ACCEPTED and that the Commission AMEND §73.202 of the Commission's Rules, as follows:

<u>City & State</u>	<u>Existing</u>	<u>Proposed</u>
Swainsboro, GA	251A, 263A	263A
East Dublin, GA	None	251C3

It is further requested that the Commission not allot Channel 253A to Soperton, Georgia.

Respectfully submitted,

LACOM COMMUNICATIONS, INC.

By: 
Christopher D. Imlay
Its Attorney

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(202) 686-9600

September 7, 1999

GRAHAM BROCK, INC.

BROADCAST TECHNICAL CONSULTANTS

COUNTERPROPOSAL
MM DOCKET #99-199
LACOM COMMUNICATIONS, INC.
ALLOT CHANNEL 251C3
EAST DUBLIN, GEORGIA
July 1999

TECHNICAL EXHIBIT

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COUNTERPROPOSAL
MM DOCKET #99-199
LACOM COMMUNICATIONS, INC.
ALLOT CHANNEL 251C3
EAST DUBLIN, GEORGIA
July 1999

TECHNICAL STATEMENT

1. This technical statement and attached exhibits were prepared on behalf of Lacom Communications, Inc. ("LCI"), licensee of station WELT, Channel 251A, Swainsboro, Georgia. LCI herein submits its comments and counterproposal to the request contained in MM Docket #99-199, which proposes, among other changes, the allotment of Channel 252C3 for Channel 280C3 at Hawkinsville, Georgia. LCI requestes, in lieu of the Hawkinsville proposal, that Channel 251C3 be substituted for Channel 251A at Swainsboro and that the channel be realotted to East Dublin, Georgia, as that community's first locally licensed service.¹

DISCUSSION

2. The city of East Dublin, Georgia, is located in the central portion of Laurens County, Georgia. East Dublin, incorporated in 1952, has a population of 2,524 persons.² East Dublin presently has no licensed AM or FM facilities. Therefore, the allocation of Channel 251C3 would provide the community with its first local transmission service. East Dublin is governed by a Mayor and a five member Town Council. The city of East Dublin provides its own police, fire, water, sewer and sanitation services.

1) It is also noted that the proposed allotment of Channel 251C3 to East Dublin is mutually exclusive with the proposed allotment of Channel 253A to Soperton, Georgia, as proposed in MM Docket #99-259. The deadline for comments in Docket #99-259 is September 7, 1999.

2) 1990 Census data, U.S. Census of Georgia 1990 CPH-2-12.

REQUEST

3. Channel 251C3 can be allotted to East Dublin, Georgia, with a site restriction of 17.0 kilometers east of the community to avoid shortspacing WIBB-FM, Channel 250C3, Fort Valley, Georgia. Channel 251C3 can be allotted at geographic coordinates North Latitude 32° 33' 28" and West Longitude 82° 42' 10". Exhibit #1 is a map visually demonstrating where a transmitter site for Channel 251C3 can be located to provide the requisite city grade coverage to East Dublin. Exhibit #2 is a §73.207 spacing study which shows that, from the proposed allocation site, Channel 251C3 meets the spacing requirements to all existing, applied for or proposed facilities.³ From the reference site, a 3.16 mV/m contour will be placed over 100% of the city of East Dublin. The proposed Channel 251C3 allotment to East Dublin is mutually exclusive with the presently licensed facilities of WELT on Channel 251A at Swainsboro, Georgia. The re-allotment of the channel will not deprive Swainsboro of its only local service, since co-owned stations WXRS-FM, Channel 263A; WJAT, 800 kHz, and WXRS, 1590 kHz will all remain licensed to Swainsboro. Further, East Dublin is not located in or near any urbanized areas as defined by the 1990 U.S. Census.

4. Therefore, LCI requests the following amendment to §73.202(b) of the rules:

East Dublin, Georgia

<u>Present</u>	<u>Proposed</u>
None	251C3

3) With the exception of the proposed allotment of Channel 252C3 to Hawkinsville, Georgia (as requested in MM Docket #99-199) and Channel 253A at Soperton, Georgia (as requested in MM Docket #99-259).

Swainsboro, Georgia

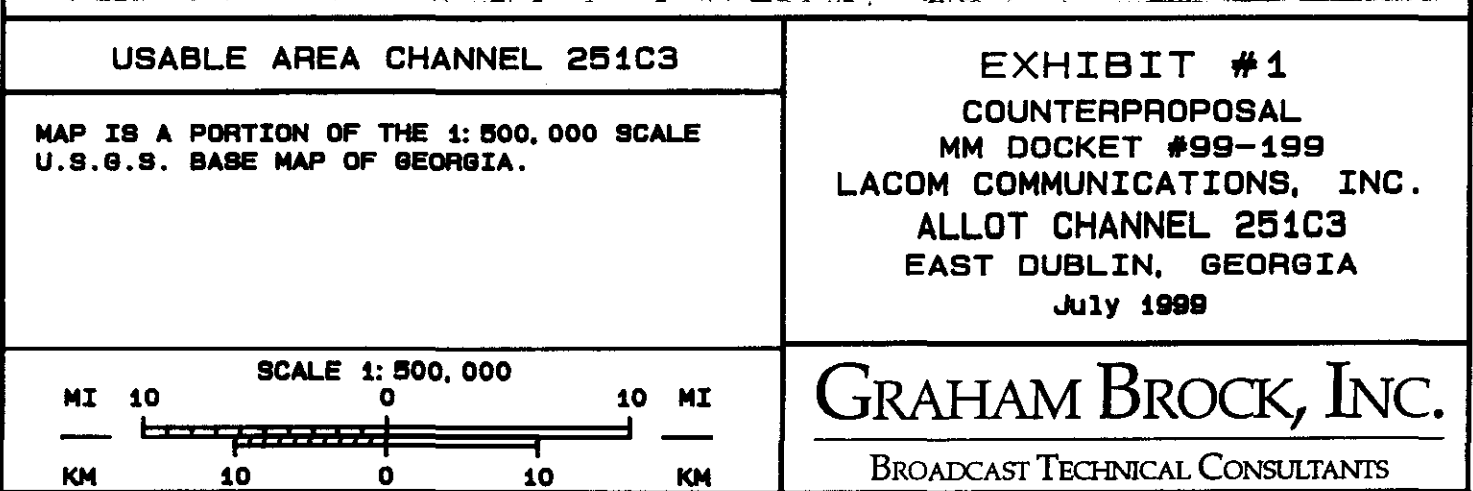
Present	Proposed
251A, 263A	263A ⁴

PUBLIC INTEREST

5. The allotment of Channel 251C3 to East Dublin, Georgia, will provide the first local service to the community. A maximum Class C3 facility will deliver a 1.0 mV/m signal to 68,509 persons in 4,697.9 square kilometers. This represents a net increase of 43,007 persons over the presently licensed facilities on WELT.⁵ When Channel 251C3 is allocated to East Dublin, LCI will file, on a timely basis, an application for a construction permit, seeking authority to construct an improved WELT at East Dublin, Georgia.

6. The foregoing Technical Statement was prepared on behalf of Lacom Communications, Inc., by Graham Brock, Inc., its Technical Consultant. All information relating to the FM allocations and facilities was extracted from the NTIA database as updated on July 16, 1999. We assume no liability for errors or omissions in that database which may be adverse to the requests contained herein.

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- 4) In addition to AM stations WJAT, 800 kHz, and WXRS, 1590 kHz, both are licensed to Swainsboro.
- 5) As presently authorized, WELT provides 1.0 mV/m service to 20,284 persons. Of these persons, 15,066 persons will also theoretically receive service from the improved WELT on Channel 251C3 at East Dublin. The small loss area contains 5,218 persons already receiving more than two other services. Therefore, no white or grey area is created as a result of the proposed re-allotment.



COUNTERPROPOSAL
MM DOCKET #99-199
LACOM COMMUNICATIONS, INC.
ALLOT CHANNEL 251C3
EAST DUBLIN, GEORGIA
July 1999

EXHIBIT #2

ALLOCATION STUDY FOR EAST DUBLIN, GEORGIA
 USING PROPOSED ALLOCATION SITE AS REFERENCE

REFERENCE		DISPLAY DATES
32 33 28 N	CLASS C3	DATA 07-15-99
82 42 10 W	Current rules spacings	SEARCH 07-19-99
----- CHANNEL 251 - 98.1 MHz -----		

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
WELT	251A	Swainsboro	GA	84.4	32.18	142.0	-109.82
LI CN	32 35 08	82 21 42	3.000 kW	87M	20.0	88.3	
	Lacom Communications, Inc.				BMLH-890228KD		
AD252	252C3	Hawkinsville	GA	246.5	76.75	99.0	-22.25
AD	32 16 51	83 27 02	0.000 kW	0M	47.7	61.5	
	Metro Comm; B/C Equities; & T				RM-9564		
AD253	253A	Soperton	GA	142.9	31.98	42.0	-10.02
AD	32 19 41	82 29 50	0.000 kW	0M	19.9	26.1	
	John Morgan Dowdy.						
WIBBFM	250C3	Fort Valley	GA	271.1	99.04	99.0	0.04
LI CN	32 34 12	83 45 26	10.500 kW	152M	61.5	61.5	
	Taylor Communications Corporation				BMLH-990112KB		
WPEK	251C	Seneca	SC	353.7	237.68	237.0	0.68
LI CN	34 41 15	82 59 13	100.000 kW	304M	147.7	147.3	
	Alpeak Broadcasting Corporation				BLH-980629KB		
WTCQ	249A	Vidalia	GA	146.3	45.04	42.0	3.04
LI CN	32 13 12	82 26 13	6.000 kW	88M	28.0	26.1	
	Vidalia Communications, Corp.				BMLH-900814KD		
WUFFFM	248A	Eastman	GA	232.9	60.94	42.0	18.94
LI CN	32 13 35	83 13 10	2.000 kW	113M	37.9	26.1	
	WUFF Radio				BMLH-930527KD		
WGCO	252C1	Midway	GA	129.4	164.47	144.0	20.47
LI CN	31 36 45	81 21 37	100.000 kW	299M	102.2	89.5	
	Intermart Broadcasting Georgia				BLH-900104KA		
WIIZ	250C2	Blackville	SC	62.9	137.80	117.0	20.80
LI CN	33 06 52	81 23 13	50.000 kW	132M	85.6	72.7	
	Dallas M. Tarkenton				BLH-960502KB		
WKKN	252A	Cordele	GA	235.5	122.55	89.0	33.55
LI ZCN	31 55 45	83 46 20	4.200 kW	85M	76.2	55.3	
	Metro Com Corp.				BLH-981008KD		

AFFIDAVIT AND QUALIFICATIONS OF CONSULTANT

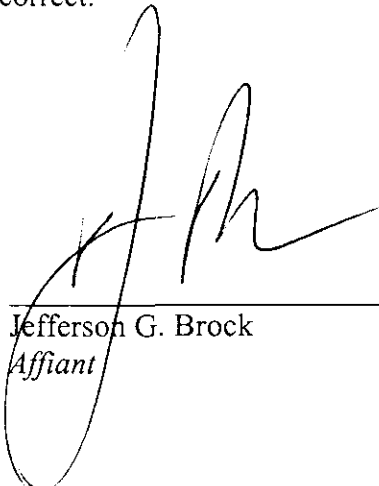
State of Georgia)
St. Simons Island) ss:
County of Glynn)

JEFFERSON G. BROCK, being duly sworn, deposes and says that he is an officer of Graham Brock, Inc. Graham Brock has been engaged by Lacom Communications, Inc, licensee of Radio Station WELT, to prepare the attached Technical Exhibit.

His qualifications are a matter of record before the Federal Communications Commission. He has been active in Broadcast Engineering since 1979.

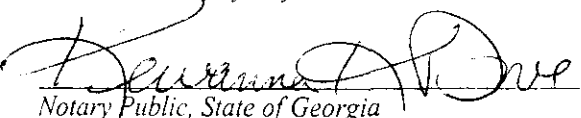
The attached report was either prepared by him or under his direction and all material and exhibits attached hereto are believed to be true and correct.

This the 19th day of July, 1999.



Jefferson G. Brock
Affiant

*Sworn to and subscribed before me
this the 19th day of July, 1999*



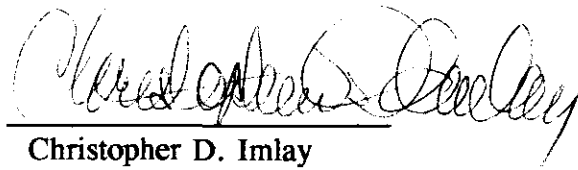
Notary Public, State of Georgia
My Commission Expires: April 20, 2002

CERTIFICATE OF SERVICE

I, Christopher D. Imlay, hereby certify that on this 7th day of September, 1999, I caused to be served a copy of the foregoing **"Comments & Counterproposal of Lacom , Inc."** via United States Mail, first-class, postage-prepaid, on the following:

John A. Karousos
Chief, Allocations Branch
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Mass Media Bureau
Federal Communications Commission
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(Counsel for Petitioner, John Morgan Dowdy)



Christopher D. Imlay